

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Beat Schilling et al.

U.S. Serial No. : 10/581,951

Filed : 08/25/2006


Title : Device for Sample
Preparation

Art Unit : 2856

Examiner : Daniel Sean Larkin

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) the United States Patent and
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) Dated: January 13, 2011

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Mail Stop Appeal Brief
Commissioner for Patents
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RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Dear Sir:

This is in response to the Notification of Non-Compliant Appeal Brief, dated January 1, 2011, wherein the Examiner indicated that the Summary of the Claimed Subject Matter section of the Appeal Brief, filed on December 13, 2010, does not map independent claim 1 to the specification by page and line number, and to the drawings, if any. The Examiner provided that only the defective section needs to be submitted.

In response, the Applicant has amended the section entitled Summary of the Claimed Subject Matter, section V., and submits that the Appeal Brief is in accordance with the Rules and requests favorable consideration.

AMENDMENT

The amended section below should replace the previously filed section V.

V. Summary of the Claimed Subject Matter

Although reference numerals and specification citations are inserted below in accordance with 37 C.F.R. 41.37(c)(1)(v), these reference numerals and citations are merely examples of where support may be found in the specification for the terms used in this section of the brief. There is no intention to in any way suggest that the terms of the claims are limited to these examples. Although, as demonstrated by the reference numerals and citations below, the claims are fully supported by the specification as required by law, it is improper under the law to read limitations from the specification into the claims. Pointing out specification support for the claim terminology as is done here to comply with rule 41.37(c)(1)(v) does not in any way limit the scope of the claims to those examples from which they find support. Nor does this exercise provide a mechanism for circumventing the law precluding reading limitations into the claims from the specification. In short, the reference numerals and specification citations are not to be construed as claim limitations or in any way used to limit the scope of the claims. Reference numerals and page numbers are provided in reference to the original disclosure, PCT/CH2004/000689.

The invention as defined in claim 1 is provided, a method for preparation of a gaseous sample while being drawn through a hollow needle 10 (p. 3 lines 8-11; Fig. 1), into a syringe 1 (p. 3 lines 1-3; Fig. 1) for extraction and enrichment of a volatile component from the sample 16 (p. 4 lines 4-6; Figs. 1, 3a, and 3b) for subsequent introduction into an analytical device is claimed, whereby for extraction of an analyte of interest the sample 16 (p. 4 lines 4-6; Figs. 1, 3a, and 3b) is flushed through a stationary phase 12 (p. 3 lines 16-18, Fig. 1) (located between the hollow needle 10 ((p. 3 lines 8-11; Fig. 1))) and the syringe 1 (p. 3 lines

1-3; Fig. 1) and having an increased volume compared to the interior of the needle 10 (p. 3 lines 8-11; Fig. 1).

In the invention as defined in claim 2, a device to carry out the method as claimed in claim 1 is claimed, wherein the device comprises a syringe 1 (p. 3 lines 1-3; Fig. 1) and a hollow needle 10 (p. 3 lines 8-11; Fig. 1) connected to a syringe body 2 (p. 3 lines 1-3, Fig. 1), wherein between the needle 10 (p. 3 lines 8-11; Fig. 1) and the syringe body 2 (p. 3 lines 1-3, Fig. 1), a chamber 9 (p. 3 lines 16-17 and 36-37; Fig. 1) is provided which is wider than the cross section of the needle 10 (p. 3 lines 8-11; Fig. 1) and in which a packing of an extraction material 12 (p. 3 lines 16-18, Fig. 1) for extracting an analyte of interest from a gaseous sample 16 (p. 4 lines 4-6; Figs. 1, 3a, and 3b) is located.

In the invention as defined in claim 3, the device of claim 2 is further defined and specified as having: the chamber 9 (p. 3 lines 16-17 and 36-37; Fig. 1) is provided with a means for heating the extraction material (for instance as defined on page 3 line 36 to page 4 line 2 as being “a heating jacket 13”).

REMARKS

The amendments to the section, V. Summary of the Claimed Subject Matter, are fully responsive to the Notification of Non-Compliant Appeal Brief dated January 3, 2011. The Applicant submits that the Appeal Brief is now in order.

It is not believed that any fees are due, if however this is not the case, please charge any fees or remit any credits to our deposit account, 12-0400.

Respectfully submitted,

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Dated: January 13, 2011



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